

REFERENCE TITLE: commercial driver licenses

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

HB 2154

Introduced by
Representative Biggs

AN ACT

AMENDING SECTIONS 28-101, 28-3004, 28-3152, 28-3312 AND 28-5204, ARIZONA
REVISED STATUTES; RELATING TO COMMERCIAL DRIVER LICENSES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 28-101, Arizona Revised Statutes, is amended to
3 read:
4 28-101. Definitions
5 In this title, unless the context otherwise requires:
6 1. "Alcohol" means any substance containing any form of alcohol,
7 including ethanol, methanol, propynol and isopropynol.
8 2. "Alcohol concentration" if expressed as a percentage means either:
9 (a) The number of grams of alcohol per one hundred milliliters of
10 blood.
11 (b) The number of grams of alcohol per two hundred ten liters of
12 breath.
13 3. "All-terrain vehicle" means a motor vehicle that satisfies all of
14 the following:
15 (a) Is designed primarily for recreational nonhighway all-terrain
16 travel.
17 (b) Is fifty or fewer inches in width.
18 (c) Has an unladen weight of eight hundred pounds or less.
19 (d) Travels on three or more low pressure tires.
20 (e) Has a seat to be straddled by the operator and handlebars for
21 steering control.
22 (f) Is operated on a public highway.
23 4. "Authorized emergency vehicle" means any of the following:
24 (a) A fire department vehicle.
25 (b) A police vehicle.
26 (c) An ambulance or emergency vehicle of a municipal department or
27 public service corporation that is designated or authorized by the department
28 or a local authority.
29 (d) Any other ambulance, fire truck or rescue vehicle that is
30 authorized by the department in its sole discretion and that meets liability
31 insurance requirements prescribed by the department.
32 5. "Aviation fuel" means all flammable liquids composed of a mixture
33 of selected hydrocarbons expressly manufactured and blended for the purpose
34 of effectively and efficiently operating an internal combustion engine for
35 use in an aircraft but does not include fuel for jet or turbine powered
36 aircraft.
37 6. "Bicycle" means a device, including a racing wheelchair, that is
38 propelled by human power and on which a person may ride and that has either:
39 (a) Two tandem wheels, either of which is more than sixteen inches in
40 diameter.
41 (b) Three wheels in contact with the ground, any of which is more than
42 sixteen inches in diameter.
43 7. "Board" means the transportation board.
44 8. "Bus" means a motor vehicle designed for carrying sixteen or more
45 passengers, including the driver.

- 1 9. "Business district" means the territory contiguous to and including
2 a highway if there are buildings in use for business or industrial purposes
3 within any six hundred feet along the highway, including hotels, banks or
4 office buildings, railroad stations and public buildings that occupy at least
5 three hundred feet of frontage on one side or three hundred feet collectively
6 on both sides of the highway.
- 7 10. "Combination of vehicles" means a truck or truck tractor and
8 semitrailer and any trailer that it tows but does not include a forklift
9 designed for the purpose of loading or unloading the truck, trailer or
10 semitrailer.
- 11 11. "Controlled substance" means a substance so classified under
12 section 102(6) of the controlled substances act (21 United States Code
13 section 802(6)) and includes all substances listed in schedules I through V
14 of 21 Code of Federal Regulations part 1308.
- 15 12. "Conviction" means:
16 (a) An unvacated adjudication of guilt or a determination that a
17 person violated or failed to comply with the law in a court of original
18 jurisdiction or by an authorized administrative tribunal.
19 (b) An unvacated forfeiture of bail or collateral deposited to secure
20 the person's appearance in court.
21 (c) A plea of guilty or no contest accepted by the court.
22 (d) The payment of a fine or court costs.
- 23 13. "County highway" means a public road constructed and maintained by
24 a county.
- 25 14. "Dealer" means a person who is engaged in the business of buying,
26 selling or exchanging motor vehicles, trailers or semitrailers and who has an
27 established place of business.
- 28 15. "Department" means the department of transportation acting directly
29 or through its duly authorized officers and agents.
- 30 16. "Director" means the director of the department of transportation.
- 31 17. "Drive" means to operate or be in actual physical control of a
32 motor vehicle.
- 33 18. "Driver" means a person who drives or is in actual physical control
34 of a vehicle.
- 35 19. "Driver license" means a license that is issued by a state to an
36 individual and that authorizes the individual to drive a motor vehicle.
- 37 20. "Electric personal assistive mobility device" means a
38 self-balancing two nontandem wheeled device with an electric propulsion
39 system that limits the maximum speed of the device to fifteen miles per hour
40 or less and that is designed to transport only one person.
- 41 21. "Farm tractor" means a motor vehicle designed and used primarily as
42 a farm implement for drawing implements of husbandry.
- 43 22. "Foreign vehicle" means a motor vehicle, trailer or semitrailer
44 that is brought into this state other than in the ordinary course of business

1 by or through a manufacturer or dealer and that has not been registered in
2 this state.

3 23. "Golf cart" means a motor vehicle that has not less than three
4 wheels in contact with the ground, that has an unladen weight of less than
5 one thousand eight hundred pounds, that is designed to be and is operated at
6 not more than twenty-five miles per hour and that is designed to carry not
7 more than four persons including the driver.

8 24. "Hazardous material" means a material, and its mixtures or
9 solutions, that the United States department of transportation determines
10 under 49 Code of Federal Regulations is, OR ANY QUANTITY OF A MATERIAL LISTED
11 AS A SELECT AGENT OR TOXIN UNDER 42 CODE OF FEDERAL REGULATIONS PART 73 THAT
12 IS, capable of posing an unreasonable risk to health, safety and property if
13 transported in commerce and that is required to be placarded or marked as
14 required by the department's safety rules prescribed pursuant to chapter 14
15 of this title.

16 25. "Implement of husbandry" means a vehicle designed primarily for
17 agricultural purposes and used exclusively in the conduct of agricultural
18 operations, including an implement or vehicle whether self-propelled or
19 otherwise that meets all of the following conditions:

20 (a) Is used exclusively for carrying products of farming from one part
21 of a farm to another part of the same farm or from one farm to another farm.

22 (b) Is used solely for agricultural purposes including the preparation
23 or harvesting of cotton, alfalfa, grains and other farm crops.

24 (c) Is only incidentally operated or moved on a highway whether as a
25 trailer or self-propelled unit.

26 26. "Limousine" means a motor vehicle providing prearranged ground
27 transportation service for an individual passenger, or a group of passengers,
28 that is arranged in advance or is operated on a regular route or between
29 specified points and includes ground transportation under a contract or
30 agreement for services that includes a fixed rate or time and is provided in
31 a motor vehicle with a seating capacity not exceeding fifteen passengers
32 including the driver.

33 27. "Livery vehicle" means a motor vehicle that:

34 (a) Has a seating capacity not exceeding fifteen passengers including
35 the driver.

36 (b) Provides passenger services for a fare determined by a flat rate
37 or flat hourly rate between geographic zones or within a geographic area.

38 (c) Is available for hire on an exclusive or shared ride basis.

39 (d) May do any of the following:

40 (i) Operate on a regular route or between specified places.

41 (ii) Offer prearranged ground transportation service as defined in
42 section 28-141.

43 (iii) Offer on demand ground transportation service pursuant to a
44 contract with a public airport, licensed business entity or organization.

1 28. "Local authority" means any county, municipal or other local board
2 or body exercising jurisdiction over highways under the constitution and laws
3 of this state.

4 29. "Manufacturer" means a person engaged in the business of
5 manufacturing motor vehicles, trailers or semitrailers.

6 30. "Moped" means a bicycle that is equipped with a helper motor if the
7 vehicle has a maximum piston displacement of fifty cubic centimeters or less,
8 a brake horsepower of one and one-half or less and a maximum speed of
9 twenty-five miles per hour or less on a flat surface with less than a one per
10 cent grade.

11 31. "Motor driven cycle" means a motorcycle, including every motor
12 scooter, with a motor that produces not more than five horsepower.

13 32. "Motor vehicle":

14 (a) Means either:

15 (i) A self-propelled vehicle.

16 (ii) For the purposes of the laws relating to the imposition of a tax
17 on motor vehicle fuel, a vehicle that is operated on the highways of this
18 state and that is propelled by the use of motor vehicle fuel.

19 (b) Does not include a motorized wheelchair, an electric personal
20 assistive mobility device or a motorized skateboard. For the purposes of this
21 subdivision:

22 (i) "Motorized skateboard" means a self-propelled device that has a
23 motor, a deck on which a person may ride and at least two tandem wheels in
24 contact with the ground.

25 (ii) "Motorized wheelchair" means a self-propelled wheelchair that is
26 used by a person for mobility.

27 33. "Motor vehicle fuel" includes all products that are commonly or
28 commercially known or sold as gasoline, including casinghead gasoline,
29 natural gasoline and all flammable liquids, and that are composed of a
30 mixture of selected hydrocarbons expressly manufactured and blended for the
31 purpose of effectively and efficiently operating internal combustion
32 engines. Motor vehicle fuel does not include inflammable liquids that are
33 specifically manufactured for racing motor vehicles and that are distributed
34 for and used by racing motor vehicles at a racetrack, use fuel as defined in
35 section 28-5601, aviation fuel, fuel for jet or turbine powered aircraft or
36 the mixture created at the interface of two different substances being
37 transported through a pipeline, commonly known as transmix.

38 34. "Motorcycle" means a motor vehicle that has a seat or saddle for
39 the use of the rider and that is designed to travel on not more than three
40 wheels in contact with the ground but excluding a tractor and a moped.

41 35. "Neighborhood electric vehicle" means a self-propelled electrically
42 powered motor vehicle to which all of the following apply:

43 (a) The vehicle is emission free.

44 (b) The vehicle has at least four wheels in contact with the ground.

1 (c) The vehicle complies with the definition and standards for low
2 speed vehicles set forth in federal motor vehicle safety standard 500 and 49
3 Code of federal regulations sections 571.3(b) and 571.500, respectively.

4 36. "Nonresident" means a person who is not a resident of this state as
5 defined in section 28-2001.

6 37. "Off-road recreational motor vehicle" means a motor vehicle that is
7 designed primarily for recreational nonhighway all-terrain travel and that is
8 not operated on a public highway. Off-road recreational motor vehicle does
9 not mean a motor vehicle used for construction, building trade, mining or
10 agricultural purposes.

11 38. "Operator" means a person who drives a motor vehicle on a highway,
12 who is in actual physical control of a motor vehicle on a highway or who is
13 exercising control over or steering a vehicle being towed by a motor vehicle.

14 39. "Owner" means:

15 (a) A person who holds the legal title of a vehicle.

16 (b) If a vehicle is the subject of an agreement for the conditional
17 sale or lease with the right of purchase on performance of the conditions
18 stated in the agreement and with an immediate right of possession vested in
19 the conditional vendee or lessee, the conditional vendee or lessee.

20 (c) If a mortgagor of a vehicle is entitled to possession of the
21 vehicle, the mortgagor.

22 40. "Pedestrian" means any person afoot. A person who uses an electric
23 personal assistive mobility device or a manual or motorized wheelchair is
24 considered a pedestrian unless the manual wheelchair qualifies as a
25 bicycle. For the purposes of this paragraph, "motorized wheelchair" means a
26 self-propelled wheelchair that is used by a person for mobility.

27 41. "Power sweeper" means an implement, with or without motive power,
28 that is only incidentally operated or moved on a street or highway and that
29 is designed for the removal of debris, dirt, gravel, litter or sand whether
30 by broom, vacuum or regenerative air system from asphaltic concrete or cement
31 concrete surfaces, including parking lots, highways, streets and warehouses,
32 and a vehicle on which the implement is permanently mounted.

33 42. "Public transit" means the transportation of passengers on
34 scheduled routes by means of a conveyance on an individual passenger
35 fare-paying basis excluding transportation by a sight-seeing bus, school bus
36 or taxi or a vehicle not operated on a scheduled route basis.

37 43. "Reconstructed vehicle" means a vehicle that has been assembled or
38 constructed largely by means of essential parts, new or used, derived from
39 vehicles or makes of vehicles of various names, models and types or that, if
40 originally otherwise constructed, has been materially altered by the removal
41 of essential parts or by the addition or substitution of essential parts, new
42 or used, derived from other vehicles or makes of vehicles. For the purposes
43 of this paragraph, "essential parts" means integral and body parts, the
44 removal, alteration or substitution of which will tend to conceal the
45 identity or substantially alter the appearance of the vehicle.

1 44. "Residence district" means the territory contiguous to and
2 including a highway not comprising a business district if the property on the
3 highway for a distance of three hundred feet or more is in the main improved
4 with residences or residences and buildings in use for business.

5 45. "Right-of-way" when used within the context of the regulation of
6 the movement of traffic on a highway means the privilege of the immediate use
7 of the highway. Right-of-way when used within the context of the real
8 property on which transportation facilities and appurtenances to the
9 facilities are constructed or maintained means the lands or interest in lands
10 within the right-of-way boundaries.

11 46. "School bus" means a motor vehicle that is designed for carrying
12 more than ten passengers and that is either:

13 (a) Owned by any public or governmental agency or other institution
14 and operated for the transportation of children to or from home or school on
15 a regularly scheduled basis.

16 (b) Privately owned and operated for compensation for the
17 transportation of children to or from home or school on a regularly scheduled
18 basis.

19 47. "Semitrailer" means a vehicle that is with or without motive power,
20 other than a pole trailer, that is designed for carrying persons or property
21 and for being drawn by a motor vehicle and that is constructed so that some
22 part of its weight and that of its load rests on or is carried by another
23 vehicle. For the purposes of this paragraph, "pole trailer" has the same
24 meaning prescribed in section 28-601.

25 48. "State" means a state of the United States and the District of
26 Columbia.

27 49. "State highway" means a state route or portion of a state route
28 that is accepted and designated by the board as a state highway and that is
29 maintained by the state.

30 50. "State route" means a right-of-way whether actually used as a
31 highway or not that is designated by the board as a location for the
32 construction of a state highway.

33 51. "Street" or "highway" means the entire width between the boundary
34 lines of every way if a part of the way is open to the use of the public for
35 purposes of vehicular travel.

36 52. "Taxi" means a motor vehicle that has a seating capacity not
37 exceeding fifteen passengers, including the driver, that is registered as a
38 taxi in this state or any other state, that provides passenger services and
39 that:

40 (a) Does not operate on a regular route or between specified places.

41 (b) Offers local transportation for a fare determined primarily on the
42 basis of the distance traveled.

43 53. "Trailer" means a vehicle that is with or without motive power,
44 other than a pole trailer, that is designed for carrying persons or property
45 and for being drawn by a motor vehicle and that is constructed so that no

1 part of its weight rests on the towing vehicle. A semitrailer equipped with
2 an auxiliary front axle commonly known as a dolly is deemed to be a
3 trailer. For the purposes of this paragraph, "pole trailer" has the same
4 meaning prescribed in section 28-601.

5 54. "Truck" means a motor vehicle designed or used primarily for the
6 carrying of property other than the effects of the driver or passengers and
7 includes a motor vehicle to which has been added a box, a platform or other
8 equipment for such carrying.

9 55. "Truck tractor" means a motor vehicle that is designed and used
10 primarily for drawing other vehicles and that is not constructed to carry a
11 load other than a part of the weight of the vehicle and load drawn.

12 56. "Vehicle" means a device in, on or by which a person or property is
13 or may be transported or drawn on a public highway, excluding devices moved
14 by human power or used exclusively on stationary rails or tracks.

15 57. "Vehicle transporter" means either:

16 (a) A truck tractor capable of carrying a load and drawing a
17 semitrailer.

18 (b) A truck tractor with a stinger-steered fifth wheel capable of
19 carrying a load and drawing a semitrailer or a truck tractor with a dolly
20 mounted fifth wheel that is securely fastened to the truck tractor at two or
21 more points and that is capable of carrying a load and drawing a semitrailer.

22 Sec. 2. Section 28-3004, Arizona Revised Statutes, is amended to read:
23 28-3004. License records

24 A. The department shall file an application for a license and shall
25 maintain suitable indexes containing, in alphabetical order:

26 1. Each application denied, with a note on each application of the
27 reason for the denial.

28 2. Each application granted.

29 3. Except as provided in subsection B of this section, the name of
30 each licensee whose license has been suspended or revoked by the department,
31 with a note after each name of the reason for the action.

32 B. The director shall expunge from the public records maintained by
33 the department a note of a suspension or revocation made pursuant to section
34 28-1385 if, after the suspension or revocation period, the licensee submits a
35 certified copy of the court record indicating a dismissal or finding of not
36 guilty of the violation on which the suspension or revocation is based. The
37 director shall not expunge the record or shall rescind the expungement of the
38 record if the licensee OPERATES A COMMERCIAL MOTOR VEHICLE WITHOUT THE PROPER
39 CLASS OF COMMERCIAL DRIVER LICENSE, HOLDS A COMMERCIAL DRIVER LICENSE OR is
40 convicted of or found responsible for a violation of chapter 3, 4 or 5 of
41 this title that occurred during the suspension or revocation period or if the
42 licensee's driver license or permit is suspended pursuant to section 28-1321
43 or suspended and restricted pursuant to section 28-1385 during the suspension
44 or revocation period.

1 C. The department shall file all abstracts of court records of
2 convictions and judgments it receives under the laws of this state and shall
3 maintain convenient records of the abstracts or make suitable notations on
4 the abstracts in order that an individual record of each licensee showing the
5 convictions and judgments of the licensee and the traffic accidents in which
6 the licensee has been involved is readily ascertainable and available for the
7 consideration of the department on an application for renewal of a license
8 and at other suitable times.

9 D. The department shall maintain the records pursuant to this section
10 for five years after the application, suspension, revocation or abstract of a
11 court record of conviction or judgment has become inactive.

12 Sec. 3. Section 28-3152, Arizona Revised Statutes, is amended to read:
13 28-3152. Driver license; exemptions; limitation

14 A. Except as provided in subsection B, the following persons are
15 exempt from licensing under this chapter:

16 1. ANY OF THE FOLLOWING WHILE OPERATING A COMMERCIAL MOTOR VEHICLE FOR
17 MILITARY PURPOSES:

18 (a) Active duty military personnel ~~while operating a military vehicle~~
19 ~~in the service of the armed forces of the United States.~~

20 (b) MEMBERS OF THE UNITED STATES MILITARY RESERVE FORCES.

21 (c) MEMBERS OF THE UNITED STATES ARMY NATIONAL GUARD ON ACTIVE DUTY OR
22 THE UNITED STATES AIR NATIONAL GUARD ON ACTIVE DUTY, INCLUDING:

23 (i) PERSONNEL ON FULL-TIME NATIONAL GUARD ACTIVE DUTY.

24 (ii) PERSONNEL ON PART-TIME NATIONAL GUARD TRAINING.

25 (d) UNITED STATES ARMY NATIONAL GUARD AND UNITED STATES AIR NATIONAL
26 GUARD MILITARY TECHNICIANS WHO ARE CIVILIANS AND WHO ARE REQUIRED TO WEAR
27 MILITARY UNIFORMS.

28 (e) ACTIVE DUTY UNITED STATES COAST GUARD PERSONNEL.

29 THIS PARAGRAPH DOES NOT APPLY TO UNITED STATES RESERVE TECHNICIANS.

30 2. A person while driving or operating a farm tractor or implement of
31 husbandry that is temporarily operated or moved on a highway.

32 3. A person who is a nonresident, who is at least sixteen years of age
33 and who has in the person's immediate possession a valid driver license
34 issued to the person in the person's home state or country while the person
35 is operating a motor vehicle requiring a class D license.

36 4. A person who is a nonresident, who is at least eighteen years of
37 age and who has in the person's immediate possession a valid commercial
38 driver license or classified license that is issued to the person in the
39 person's home state or country and that authorizes operation of a commercial
40 motor vehicle while the person is operating a motor vehicle requiring a class
41 A, B or C license in this state, except that the person must be licensed
42 under this chapter before accepting employment from a resident of this state
43 involving the operation of a motor vehicle requiring a class A, B or C
44 license.

1 5. A person who is a nonresident, who is at least eighteen years of
2 age and whose home state or country does not require the licensing of
3 operators while the person operates a motor vehicle requiring a class D
4 license for a period of not more than ninety days in a calendar year, if the
5 motor vehicle that the person is operating is duly registered in the home
6 state or country of the nonresident.

7 6. A person who has in the person's immediate possession a valid
8 driver license issued to the person by another state or country while the
9 person is operating a motor vehicle requiring a class D license, who is an
10 employee, agent or consultant of an organization that operates in this state
11 and at least one other state or country, who is principally domiciled or
12 employed in another state or country and who is present in this state not
13 more than ninety consecutive days.

14 B. A person who is a resident of a foreign country and who operates a
15 commercial vehicle in this state shall obtain a commercial driver license of
16 the proper class that is issued by this state or another state, if the
17 foreign country does not grant reciprocal driver license privileges to
18 operators of commercial vehicles who are residents of this state.

19 Sec. 4. Section 28-3312, Arizona Revised Statutes, is amended to read:
20 28-3312. Mandatory disqualification of commercial driver
21 licenses; definition

22 A. The department shall disqualify a person **REQUIRED TO HAVE A**
23 **COMMERCIAL DRIVER LICENSE OR A COMMERCIAL DRIVER LICENSE HOLDER** from driving
24 a commercial motor vehicle as follows:

25 1. Except as provided in subsection ~~F~~ E of this section and except as
26 otherwise provided in this subsection, for at least one year ~~from the date~~ **IF**
27 a person:

28 (a) Refuses a test in violation of section 28-1321.

29 (b) Is convicted of a first violation of any of the following:

30 (i) Driving a commercial motor vehicle under the influence of
31 intoxicating liquor or a controlled substance or while having an alcohol
32 concentration of 0.04 or more.

33 (ii) Leaving the scene of an accident involving a motor vehicle driven
34 by the person.

35 (iii) Using a motor vehicle in the commission of a felony.

36 (iv) A violation of chapter 4, article 3 of this title while operating
37 a noncommercial motor vehicle.

38 (v) **DRIVING A COMMERCIAL MOTOR VEHICLE WHILE, AS A RESULT OF PRIOR**
39 **VIOLATIONS OF THIS TITLE COMMITTED WHILE OPERATING A COMMERCIAL MOTOR**
40 **VEHICLE, THE PERSON'S COMMERCIAL DRIVER LICENSE IS REVOKED, SUSPENDED OR**
41 **CANCELED OR THE PERSON IS DISQUALIFIED FROM OPERATING A COMMERCIAL MOTOR**
42 **VEHICLE.**

43 (vi) **CAUSING A FATALITY THROUGH THE NEGLIGENT OPERATION OF A**
44 **COMMERCIAL MOTOR VEHICLE, INCLUDING A CONVICTION OF MANSLAUGHTER, HOMICIDE OR**
45 **NEGLIGENT HOMICIDE RESULTING FROM OPERATION OF A MOTOR VEHICLE.**

1 2. For at least three years, if **THE PERSON IS CONVICTED OF** any of the
2 violations prescribed in paragraph 1 of this subsection **AND THE VIOLATION**
3 occurred while the person was transporting a hazardous material in the
4 quantity and under the circumstances that require placarding of the transport
5 vehicle under the department's safety rules pursuant to chapter 14 of this
6 title.

7 3. ~~Except as provided in subsection B or C of this section,~~ For the
8 life of the person, if the person is convicted of two or more violations of
9 any of the offenses prescribed in paragraph 1 of this subsection or of any
10 combination of those offenses arising from two or more separate
11 incidents. The department shall consider only offenses committed from and
12 after December 31, 1989 in applying this paragraph.

13 4. ~~For the life of the person,~~ **PERMANENTLY** if the person ~~uses~~ **IS**
14 **CONVICTED OF USING** any motor vehicle in the commission of a felony involving
15 the manufacture, distribution or dispensing of a controlled substance or
16 possession with intent to manufacture, distribute or dispense a controlled
17 substance.

18 5. For at least sixty consecutive days, if the person is convicted of
19 two serious traffic violations committed in a motor vehicle arising from
20 separate incidents occurring within a three year period from the date of the
21 ~~conviction~~ **VIOLATION**.

22 6. For at least one hundred twenty ~~consecutive~~ days **SERVED IN ADDITION**
23 **TO ANY OTHER DISQUALIFICATION**, if the person is convicted of ~~three~~ **A THIRD OR**
24 **SUBSEQUENT** serious traffic ~~violations~~ **VIOLATION** committed in a motor vehicle
25 arising from separate incidents occurring within a three year period from the
26 date of the ~~conviction~~ **VIOLATION**.

27 B. Except as provided in subsection C of this section, a person
28 **REQUIRED TO HAVE A COMMERCIAL DRIVER LICENSE OR A COMMERCIAL DRIVER LICENSE**
29 **HOLDER** who is found responsible for violating an out-of-service order
30 pursuant to section 28-5241 is disqualified from driving a commercial motor
31 vehicle as follows:

32 1. For a period of ninety days if the person is found responsible for
33 a first violation of an out-of-service order.

34 2. For a period of one year if the person is found responsible for a
35 second violation of any out-of-service order during any ten year period
36 arising from separate incidents.

37 3. For a period of three years if the person is found responsible for
38 a third or subsequent violation of any out-of-service order during any ten
39 year period arising from separate incidents.

40 C. A person **REQUIRED TO HAVE A COMMERCIAL DRIVER LICENSE OR A**
41 **COMMERCIAL DRIVER LICENSE HOLDER** who is found responsible for violating an
42 out-of-service order pursuant to section 28-5241 while transporting hazardous
43 materials or while operating a commercial motor vehicle designed or used to
44 transport sixteen or more passengers, including the driver, is disqualified
45 from driving a commercial motor vehicle as follows:

1 1. For a period of one hundred eighty days if the person is found
2 responsible for a first violation of an out-of-service order.

3 2. For a period of three years if the person is found responsible for
4 a second or subsequent violation of any out-of-service order during any ten
5 year period arising from separate incidents.

6 D. A person **REQUIRED TO HAVE A COMMERCIAL DRIVER LICENSE OR A**
7 **COMMERCIAL DRIVER LICENSE HOLDER** who is convicted of or found responsible for
8 violating any federal, state or local railroad grade crossing law, ordinance
9 or regulation is disqualified from driving a commercial motor vehicle as
10 follows:

11 1. For a period of sixty days if a person is convicted of or found
12 responsible for a first violation.

13 2. For a period of one hundred twenty days if a person is convicted of
14 or found responsible for a second violation during any three year period.

15 3. For a period of one year if a person is convicted of or found
16 responsible for a third or subsequent violation during any three year period.

17 ~~E. The department shall permanently disqualify a person from driving a~~
18 ~~commercial motor vehicle if the person does any of the following:~~

19 ~~1. More than once refuses a test in violation of section 28-1321 if~~
20 ~~the refusals involve more than one incident.~~

21 ~~2. More than once is convicted of violating chapter 4, article 3 of~~
22 ~~this title.~~

23 ~~3. More than once uses a noncommercial motor vehicle in the commission~~
24 ~~of a felony.~~

25 F. E. If a federal agency determines that a commercial motor vehicle
26 licensee is driving in a manner that constitutes an imminent hazard, the
27 department, on receipt of notification by the federal government, shall
28 disqualify the driver for a period not to exceed one year. **THE**
29 **DISQUALIFICATION SHALL RUN CONCURRENTLY WITH ANY OTHER DISQUALIFICATION**
30 **IMPOSED ON THE DRIVER.** For the purposes of this subsection, "imminent
31 hazard" means the existence of a condition that presents a substantial
32 likelihood that death, serious illness, severe personal injury or a
33 substantial endangerment to health, property or the environment may occur
34 before the reasonably foreseeable completion date of a formal proceeding to
35 decrease the risk of death, illness, injury or endangerment.

36 ~~G.~~ F. The department shall keep records of findings of responsibility
37 for a civil traffic violation and of conviction of any moving criminal
38 traffic violation for a commercial driver licensee **FOR VIOLATIONS IN ANY TYPE**
39 **OF MOTOR VEHICLE AND FOR A PERSON REQUIRED TO HAVE A COMMERCIAL DRIVER**
40 **LICENSE** if the violations arise from **THE OPERATION OF** a commercial motor
41 vehicle ~~or a noncommercial motor vehicle.~~ **THE DEPARTMENT SHALL MAKE THE**
42 **RECORDS AVAILABLE TO OTHER STATES, THE UNITED STATES SECRETARY OF**
43 **TRANSPORTATION, THE DRIVER AND ANY MOTOR CARRIER OR PROSPECTIVE MOTOR CARRIER**
44 **OR THE MOTOR CARRIER'S DESIGNATED AGENT WITHIN TEN DAYS AFTER A CONVICTION IN**

1 THIS STATE OR RECEIPT OF A NOTICE OF A CONVICTION OR DISQUALIFICATION
2 RECEIVED FROM ANOTHER STATE.

3 ~~H. A person found responsible within three years for a second~~
4 ~~violation of any of the following shall be disqualified from driving a~~
5 ~~commercial motor vehicle for a period of sixty days and for a period of one~~
6 ~~hundred twenty days for a third or subsequent violation of any of the~~
7 ~~following:~~

8 ~~1. Driving a commercial motor vehicle when the person has not been~~
9 ~~issued a valid commercial driver license.~~

10 ~~2. Driving a commercial motor vehicle without a commercial driver~~
11 ~~license in the person's possession.~~

12 ~~3. Driving a commercial motor vehicle without having a valid~~
13 ~~endorsement for the type of commercial motor vehicle or motor vehicle~~
14 ~~combination being operated.~~

15 ~~I.~~ G. Disqualification for ~~an offense~~ A SERIOUS TRAFFIC VIOLATION
16 committed by a commercial driver license holder while operating a
17 noncommercial motor vehicle applies only if the conviction results in the
18 revocation, cancellation or suspension of the person's commercial driver
19 license or noncommercial driver license.

20 ~~J.~~ H. The department may adopt rules establishing guidelines and
21 conditions under which the department may reduce a disqualification for life
22 pursuant to subsection A, paragraph 3 of this section to a disqualification
23 of at least ten years. If a person's disqualification is reduced pursuant to
24 rules adopted pursuant to this subsection and the person is subsequently
25 ~~disqualified pursuant to~~ CONVICTED OF A VIOLATION DESCRIBED IN subsection A,
26 paragraph ~~3-~~ 1 of this section, the person is permanently disqualified from
27 driving a commercial vehicle and is not eligible to apply for a reduction of
28 the disqualification pursuant to rules adopted pursuant to this subsection.

29 ~~K. If criminal convictions or civil traffic violations result in~~
30 ~~multiple disqualifications or if a person is serving a disqualification and~~
31 ~~is subsequently convicted of an offense or found responsible for a civil~~
32 ~~traffic violation the result of which would be an additional~~
33 ~~disqualification, the disqualifications shall run consecutively unless the~~
34 ~~court expressly directs otherwise. If the court expressly directs otherwise,~~
35 ~~the court shall set forth on the record the reason for its sentence.~~

36 I. EXCEPT AS PROVIDED IN SUBSECTION E OF THIS SECTION, THE BEGINNING
37 DATE OF THE DISQUALIFICATION SHALL BE THE DATE THE DEPARTMENT RECEIVES THE
38 REPORT OF CONVICTION OR FINDING OF RESPONSIBILITY.

39 ~~L.~~ J. For the purposes of this section, "serious traffic violation"
40 means a conviction OR FINDING OF RESPONSIBILITY for any of the following:

41 1. Excessive speeding involving a single offense for a speed of
42 fifteen miles per hour or more above the posted speed limit.

43 2. Reckless driving as provided by section 28-693.

44 3. Aggressive driving as provided by section 28-695.

45 4. Racing as defined in section 28-708.

1 5. Improper or erratic traffic lane changes as provided by section
2 28-729.

3 6. Following the vehicle ahead too closely as provided by section
4 28-730.

5 7. A violation of this title that is connected with a fatal traffic
6 accident.

7 8. DRIVING A COMMERCIAL MOTOR VEHICLE IF THE PERSON HAS NOT BEEN
8 ISSUED A VALID COMMERCIAL DRIVER LICENSE PURSUANT TO THIS CHAPTER.

9 9. DRIVING A COMMERCIAL MOTOR VEHICLE WITHOUT A COMMERCIAL DRIVER
10 LICENSE IN THE PERSON'S POSSESSION.

11 10. DRIVING A COMMERCIAL MOTOR VEHICLE WITHOUT HAVING A VALID
12 ENDORSEMENT FOR THE TYPE OF COMMERCIAL MOTOR VEHICLE OR MOTOR VEHICLE
13 COMBINATION BEING OPERATED.

14 Sec. 5. Section 28-5204, Arizona Revised Statutes, is amended to read:
15 28-5204. Administration and enforcement; rules; exemption

16 A. In the administration and enforcement of this chapter, the
17 department of transportation shall adopt:

18 1. Reasonable rules it deems proper governing the safety operations of
19 motor carriers, including rules governing safety operations of motor
20 carriers, shippers and vehicles transporting hazardous materials, hazardous
21 substances or hazardous wastes and shall prescribe necessary forms. In
22 determining reasonable rules, the department of transportation shall
23 consider:

24 (a) The nature of the operations and regulation of public service
25 corporations as defined in article XV, sections 2 and 10, Constitution of
26 Arizona.

27 (b) Rules adopted by the director of environmental quality pursuant to
28 section 49-855.

29 2. Rules necessary to enforce and administer this chapter, including
30 rules setting forth reasonable procedures to be followed in the enforcement
31 of this chapter and rules adopting transporter safety standards for hazardous
32 materials, hazardous substances and hazardous waste. In adopting the rules,
33 the department shall consider, as evidence of generally accepted safety
34 standards, the publications of the United States department of transportation
35 and the environmental protection agency.

36 B. Rules adopted by the department of transportation also apply to a
37 manufacturer, shipper, motor carrier and driver.

38 C. The department of public safety shall and a political subdivision
39 OR THE FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION OR ITS SUCCESSOR may
40 enforce this chapter and any rule adopted pursuant to this chapter by the
41 department of transportation. A person acting for a political subdivision in
42 enforcing this chapter is required to be certified by the department of
43 public safety as qualified for the enforcement activities.

1 D. The department may audit records and inspect vehicles transporting
2 hazardous materials, hazardous wastes and hazardous substances as prescribed
3 in title 49.

4 E. This section does not apply to a lightweight motor vehicle carrying
5 hazardous materials in an amount of less than one thousand pounds or not more
6 than one hundred ten gallons of combustible liquid as listed in 49 Code of
7 Federal Regulations section 172.504(a) table 2.